

### **REMARKS/ARGUMENTS**

Claims 1-18 remain in this application. Claims 1, 7, 10 and 16 have been amended to correct minor editorial problems.

Independent claim 1, as amended, recites, inter alia, receiving a call from a caller to a subscriber at a first network element, as part of the call a tone or an announcement needs to be played to the subscriber, and determining whether a second network element is able to play the tone or the announcement in a multimedia communications network.

Applicants submit that neither Milewski nor Lynn discloses at least the aforementioned features of independent claim 1. In particular, it is submitted that the primary citation to Milewski does not disclose the claimed method. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of Milewski and Lynn is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The primary citation to Milewski relates to a method of telephone voice ringing using a transmitted voice announcement. (Milewski, Fig.1). In particular, the calling party's telephone 110 communicates with the called party's telephone 160 through a Public Switched Telephone Network (PSTN) 130.

The Office Action contends that the method described as being used to replace the traditional telephone ring that signals receipt of an incoming phone call with a short verbal announcement that indicates the recipient has received an incoming phone call meets the aforementioned features of independent claim 1. (Office Action, page 3). This contention is respectfully traversed.

Milewski, at column 3, lines 7-24, expressly teaches that a calling party who desires to place a phone call to a called party and who desires to signal the receipt of the incoming call to the called party with a voice-announcement call request signal, or "voice-ring", utilizes the calling party's PC 105 to generate and transmit the voice announcement to the called party's PC 155. The calling party utilizes a microphone 107 to compose a voice announcement for transmission to the called party's PC 155. The calling party speaks the voice announcement that is to serve as the voice-ring by

speaking into microphone 107. The PC 105 can either record and store the voice announcement and then transmit it to the called party's PC 155 as an audio file or can directly transmit the voice announcement to the PC 155 as a data stream without first recording the announcement. Thus, it is not required that the voice announcement be first recorded by the PC 105 before transmission to the called party's PC 155.

Of course, pre-recorded voice announcements could be stored in a database 108 whereby the calling party could select a pre-recorded voice announcement for transmission to the called party's PC 155. (Milewski, column 3, lines 25-46.) But this not correspond in any way to the step of determining whether a second network element is able to play the tone or the announcement as recited in claim 1.

Thus, the focus in Milewski is the steps taken at the calling party's end and with the calling party's electronic devices, including the calling party's telephone 110 and PC 105. There is simply no teaching or suggestion of receiving a call at a network element (the integrated services network 120 described in Milewski is not a first *network element*, but rather a *network itself*, as described at column 3, line 1 of Milewski) and then determining how to allocate resources such as tones (there is no discussion of playing tones in Milewski) and announcements with respect to a number of network elements. Accordingly, Milewski cannot reasonably be interpreted to disclose the aforementioned features of independent claim 1.

The secondary citation to Lynn relates to an automated announcement system and is cited for its alleged disclosure of playing the tone or the announcement through the second network element if the second network element is able to play the tone or announcement as well as attempting to locate a third network element that is able to play the tone or announcement if the second network element is not able to play the tone or announcement. (Office Action, page 4). Applicants submit that Lynn does not add anything that would remedy the aforementioned deficiencies in Milewski. Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 1 (and its dependant claims 2-9) under 35 U.S.C. §103 are respectfully requested.

The arguments presented above apply equally as well to claims 10-18 and withdrawal of the rejection of those claims under 35 U.S.C. §103 are respectfully requested.

Furthermore, dependent claims 2-5, 8-9, 11-15 and 17-18 are separately patentable. These claims recite specific components from wireless networks, including the IP multimedia subsystem. Such components are not taught or suggested in Milewski or Lynn.

### **CONCLUSION**

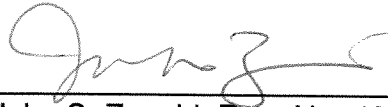
For at least the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-18) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.


In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone John S. Zanghi, at 216.363.9000.

Respectfully submitted,

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5/11/09  
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